IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

CRL.REF.No. 1 of 2007()

SC.791/2005 of DISTRICT COURT, ALAPPUZHA
CP.33/2006 of J.M.F.C.,MAVELIKKARA

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ON THE BASIS OF THE REPORT OF THE SESSIONS JUDGE, ALAPPUZHA.

THIS CRIMINAL REFERENCE HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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Crl. Ref.No. 1 of 2007

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Dated this the 16th day of January, 2007

O R D E R

This Reference is registered on the basis of a report dt.28.9.2006 by the learned Sessions Judge, Alleppey. The learned Sessions Judge has brought to the notice of the Court an erroneous committal by the Judicial First Class Magistrate, Mavelikkara wrongly stating that the first accused had also been committed for trial before the learned Sessions Judge when in fact only the third accused had appeared before the learned Magistrate and he alone was committed to the Court of Sessions. In the order passed in C.P. 67 of 2005 it was erroneously stated that both accused 1 and 3 are committed to the Court of Sessions, whereas only the third accused had entered appearance. The learned Sessions Judge prays that the said order of committal, in so far as it relates to the first accused, may be quashed and C.P.No. 33 of 2006, which has subsequently been registered against the said first accused, may be permitted to continue.

2. I am satisfied in the circumstances that the prayer is justified. As the learned Sessions Judge does not have the jurisdictional competence to suo motu set aside an order of committal, the learned Sessions Judge has been forced to make the present request. I am satisfied that the prayer can be allowed. The committal of the first accused as per order in C.P. 67 of 2005 is hereby quashed and the learned Magistrate is permitted to continue the proceedings for committal of the said first accused as per C.P. 33 of 2006 presently registered before the J.F.C.M. Mavelikkara.

3. This Crl. Reference is accordingly answered. But it must be ensured that such careless mistakes do not occur hereafter. Communicate the order to the learned Sessions Judge forthwith.

(R. BASANT)
Judge

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